IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Contempt Petition No. 342 of 2005

Haribhau K Kedar ...petitioner

vs

The State of Mah and ors.. respondents

Mr Sanjay D Thokade for petitioner

Mr.S.S.Bhende AGP for State

Mre R.V.More for respondent no. 3

CORAM; A.M.KHANWILKAR J.

DATED l3.6.2006

P.C.

l. Heard learned counsel for the parties. Perused the pleadings on record. In this petition grievance is made that the directions given by the Division Bench of this court in order dated 7.2.2005 in Writ Petition No.8238 of 2004 have not been complied with. It is the case of the petitioner that the respondent Corporation has wilfully not complied with the said directions for which contempt action is the appropriate remedy. However, after going through the pleadings filed before this court I am satisfied that it is not a case of wilfull disobedience of the order of this court.

2. The first direction that was given by this court in the aforesaid order was to the Municipal Corporation, Nasik to decide the inquiry against the petitioner by passing appropriate order expeditiously and preferably within two months. Indeed, the final decision taken by the Corporation is not within the specified time. Nevertheless, appropriate orders have been passed. It is seen that as a consequence of recommendation made by the borrowing authority (State Government), the Commissioner in principle accepted that proposal and placed the same before the Standing Committee of the Corporation, whereafter the matter was placed before the General Body of the Corporation. The General Body of the Corporation, however,recommended reinstatement of the petitioner. That Resolution of the General Body was the subject matter of the review before the State Government and the State Government by order dated 24.3.2006 has set aside the said resolution. In other words, the recommendation of the Commissioner to dismiss the petitioner from service stands confirmed and appropriate orders have been passed. Suffice it to observe that the directions given by this court to the Corporation to decide the inquiry and pass appropriate orders has been

taken to its logical end by resorting to the aforesaid procedure. If the petitioner has any grievance about the correctness of the order passed against him dismissing him from service, it would be open to him to take recourse to such remedy as may be permissible in law, in which remedy all questions will be considered on its own merits.

3. The second direction given by the division bench of this court in its order dated 7.2.2005 was to take back the petitioner in service and pay him all his dues(suspension allowance) as permissible under the rules from the date he resumes office. In so far as this direction is concerned, it is stated in para l6 of the affidavit filed by the Commissioner that the requisite amount relating to the suspension allowance has been paid to the petitioner as the consequence of the order passed by the Corporation on 3l.5.2006. The amount so offered by the Corporation has been accepted by the petitioner. Thus understood, even the second direction has been complied with by the Corporation. However, as mentioned earlier there has been some delay in complying with the said directions given by this court. It may be mentioned that in the directions given by the division bench for payment of the suspension

allowance there is no period specified within which the amount was required to be paid to the petitioner, however, the same has been paid to him after a period of one year. However, as there is no specific direction to pay the amount within a specified time or provision made in the order of the division bench to pay interest to the petitioner for the delayed payment, it is not possible for this court while entertaining the contempt petition to pass directions to the Corporation to pay interest for the delayed payment. It is not the case of the petitioner that the petitioner is entitled to statutory interest. No such provision has been brought to my notice. On the other hand from the computation done by the Corporation, it is obvious that the same is in conformity with the provisions and the rules. If the petitioner has any grievance regarding the correctness of the computation or claim for interest for the delayed payment, it will be open to the petitioner to take recourse to such remedy as permissible in law. By no standard, it is a case of wilfull disobedience or breach of the order of this court so as to take recourse to the remedy of contempt court.Hence this petition is dismissed. Notice issued to the respondent stands discharged.